

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE
Ordered on Briefs April 24, 2009

JUDITH ANNE LAWS v. SHANNON TODD COFFEY

Direct Appeal from the Circuit Court for Jefferson County
No. 21,877 Hon. O. Duane Slone, Circuit Judge

No. E2008-02612-COA-R3-CV - FILED MAY 8, 2009

The Trial Court granted petitioner's Petition for an Order of Protection. Respondent has appealed. We affirm.

Tenn. R. App. P.3 Appeal as of Right; Judgment of the Circuit Court Affirmed.

HERSCHEL PICKENS FRANKS, P.J., delivered the opinion of the Court, in which CHARLES D. SUSANO, JR., J., and D. MICHAEL SWINEY, J., joined.

Douglas T. Jenkins, Rogersville, Tennessee, for appellant, Shannon Todd Coffey.

OPINION

Judith Anne Laws filed a Petition for an Order of Protection on September 3, 2008 against Shannon Todd Coffey. The Petition was heard before the Trial Court and an Order of Protection for the period of one year was entered by the Trial Judge against respondent on October 24, 2008. Respondent has appealed to this Court. Respondent timely filed his appellate brief, but petitioner has not filed an appellee's brief.¹

In the Trial Court, the petitioner testified at length, but respondent did not testify. At

¹The record shows that appellant mailed his brief to petitioner's last known address, but it was returned "Moved/Left no Address/Unable to Forward/Return to Sender". The record also establishes that three notices mailed by the Appellate Court Clerk's Office to appellee's last known address were returned by the United States Postal Service with similar notations.

the conclusion of the evidentiary hearing, the Trial Court explained his decision by observing:

What the assessment of the Order of Protection provision provides that the stalking victim means any person, regardless of the relationship to the perpetrator, who has been subjected to, threatened with, or placed in the fear of the offense of stalking.

The Court will construe this language narrowly in that the legislature intended to use the words "threatened with" or "placed in fear of the offense of stalking," as opposed to a person who qualifies as a victim in a stalking offense.

The Trial Court then explained that in his opinion "the stalking doesn't have to be more than on the - - pattern of conduct doesn't have to be on the separate days." The Trial Court then credited the testimony of petitioner and entered the Order of Protection.

Crediting petitioner's testimony, as the Trial Court did, she was clearly placed in fear by the conduct of respondent, which brings her within the definition of a "stalking victim":

Tenn. Code Ann. § 36-3-601(11), "stalking victim" means any person regardless of the relationship with the perpetrator, who has been subjected to, threatened with, or placed in fear of the offense of stalking, as defined in § 39-17-315

The respondent's argument focuses on whether the respondent was guilty of the offense of stalking, as defined in Tenn. Code Ann. § 39-17-315.

The issue before us is not whether the evidence would support a conviction for the offense of stalking, but rather whether there was a basis to issue the protective order. We agree with the Trial Court that the protective order is appropriate because the evidence clearly establishes that the petitioner was "placed in fear" and she falls within the definition of "a stalking victim". We affirm the Judgment of the Trial Court and assess the cost of the appeal to Shannon Todd Coffey.

HERSCHEL PICKENS FRANKS, P.J.